



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,108	10/15/2003	Michael D. Baudino	P-9887.02 US	6780
27581	7590	09/20/2004	EXAMINER	
MEDTRONIC, INC. 710 MEDTRONIC PARKWAY NE MS-LC340 MINNEAPOLIS, MN 55432-5604			LAYNO, CARL HERNANDZ	
			ART UNIT	PAPER NUMBER
			3762	

DATE MAILED: 09/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/686,108

Applicant(s)

BAUDINO, MICHAEL D.

Examiner

Carl H. Layno 9/15/04

Art Unit

3762

T

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17-20 is/are allowed.
- 6) ☒ Claim(s) 1-16 and 21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/15/2004</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for Priority as a Division of U.S. Application Serial No. 09/893,851, filed June 28, 2001, now U.S. Patent No. 6,671,544.

Information Disclosure Statement

2. Acknowledgment is made of applicant's Information Disclosure Statement, which was received by the Office on October 15, 2003. Although lists of prior art patents were submitted, no PTO-1449 was provided. Consequently, the Examiner has created his own PTO-1449 and attached it to this action.

Drawings

3. Applicant's formal drawings were received by the Office on October 15, 2003 and have been approved by the Examiner.

Specification

4. The disclosure is objected to because of the following informalities:
-p.1 of the specification, paragraph [01], the sentence should be updated to reflect the fact that U.S. Application Serial No. 09/893,851 is now U.S. Patent No. 6,671,544..
Appropriate correction is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

6. Claims 9, 12, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Lessar et al '866.

The Lessar et al '866 patent, which describes a medical electrical lead conductor, states that the use of drawn brazed-stranded (DBS) conductors having inner silver cores surrounded by stainless steel outer surfaces is a common construction technique used by pacing lead manufacturers (col.1, lines 18-25) to obtain better lead performance.

In regard to claims 12 and 21, the lead of Lessar et al is surrounded by an insulative sheath **22** (Fig.2) composed of polyurethane (col.2, line 44).

7. Claims 1-16 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Laske et al '341.

The Laske et al '341 patent describes a multi-stranded conductor (Fig. 2) used in implantable medical devices comprising applicant's claimed features of a cable composed of wires 20,30,32,34,36,38,40, wherein each wire is composed of a plurality of wire strands 44,46,48,50,52,54,62,64,66,68,70,72. Each strand consists of a gold or silver inner core surrounded by an MP35N cladding outer surface (col.6, lines 21-26). The MP35N cladding has a resistivity of approximately 0.0001033 ohm-cm, or 103.3 microhm-cm, whereas that of gold (0.0000022 ohm-cm) and silver (0.00000155 ohm-cm) are substantially less. See attached MatWeb Material Property Data sheets.

In regard to claim 2, the MP35N outer surface is an alloy of nickel, cobalt, chrome, and molybdenum (see attached MatWeb data sheet).

In regard to claims 6 and 10, the wires are either drawn brazed stranded (DBS) or drawn filled tubing (DFT). See col.6, lines 22-23 and 25.

In regard to claims 7 and 11, applicant's attention is drawn to Fig.2, which shows multiple strands comprising the Laske et al conductor.

In regard to claims 8 and 12, applicant's attention is directed to insulating sheath 14 (Fig.1), which surrounds the conductor.

In regard to claim 9, pacing lead wires comprising a silver core surrounded by a stainless steel outer cladding are well known in the art by pacing lead manufacturers. Applicant's attention is directed to col.1, lines 43-49.

Art Unit: 3762

In regard to claim 13, an MP35N-Silver alloy may be used in the wire construction (col.7, line 22).

In regard to claim 14, the inner core can be made of gold. (col.6, line 24.

In regard to claim 15, the inner core resistivity of silver is 1.55 microhm-cm, whereas that of gold is 2.2 microhm-cm.

In regard to claim 16, since the outer core is MP35N, the resistivity ratio is (103.3/1.55) 66.6:1 for silver and approximately 46.95:1 for gold.

In regard to claim 21, the lead 10 (Fig.1) is surrounded by an insulative sheath 14 comprised of polyurethane (col.5, lines 14-17).

Allowable Subject Matter

8. The following is a statement of reasons for the indication of allowable subject matter:

In regard to claim 17, the Examiner could not find a teaching in the prior art for applicant's conductor having a "composite resistance" in the range of about "0.05 to about 0.3 ohms per centimeter. Hence claim 17 and its depending claims are deemed to be allowable..

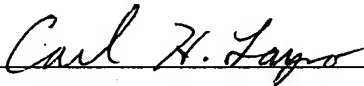
Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carl H. Layno whose telephone number is (703) 308-3694. The examiner can normally be reached on Monday thru Thursday from 9 AM to 6 PM and every other Friday between 9AM and 5PM. A voice mail or E-mail message (carl.layno@uspto.gov) may be left if desired.

Art Unit: 3762

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes, can be reached on (703) 308-5181. All faxed correspondence should be sent to the Office's new Official FAX number (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Legal Instruments Examiner (LIE) Brenda Webb whose telephone number is (703) 305-7520.

A handwritten signature in cursive script, reading "Carl H. Layno", is written over a horizontal line.

CARL LAYNO
PRIMARY EXAMINER

CHL
9/5/2004